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Notice of Allowability

Application No.

10/603,670

Examiner

Johannes P Mondt

Applicant(s)

CAMPBELL, KRISTY A.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 10/13/2004.

2. ☒ The allowed claim(s) is/are 11,24,25 and 27-43.

3. ☒ The drawings filed on 26 June 2004 are accepted by the Examiner.

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 7/16/04, 10/13/04

4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)

6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____.

NATHAN J. FLYNN
SUPERVISOR, PATENT EXAMINER
TECHNOLOGY CENTER 2800

DETAILED ACTION

Response to Amendment

Applicant's Amendment to Non-Final Office Action mailed 06/16/2004 forms the basis of this official action.

Information Disclosure Statement

The examiner has considered the items listed in the Information Disclosure Statements filed July 16, 2004, and October 13, 2004. Enclosed with this official action please find signed copies of the two Forms PTO-1449 corresponding to said Information Disclosure Statements.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney D'Amico on November 3, 2004.

BEGIN EXAMINER'S AMENDMENT:

In Claim 25, line 3, the wording "about" has been replaced by "substantially equal to".

END OF EXAMINER'S AMENDMENT.

Allowable Subject Matter

1. ***Claims 11, 24, 25 and 27-43*** are allowed. The following is an examiner's statement of reasons for allowance:

With regard to claim 11: Closest prior art is Kozicki (US Patent Application with Publication No. 2003/0209728 A1). Within the context as defined otherwise by claim 11 the range for the stoichiometric parameter x ($39 \leq x \leq 42$) as claimed is not found in the prior art, because, although Kozicki discloses the invention as claimed in said Patent Application no disclosure of the claimed range is found in the Provisional Applications, thus implying an effective file date after that of Applicant's invention.

With regard to claim 24: Closest prior art is Kozicki (US Patent Application with Publication No. 2003/0209728 A1). Within the context as defined otherwise by claim 24 the range for the stoichiometric parameter x ($40 \leq x$) as claimed is not found in the prior art, because, although Kozicki discloses the invention as claimed in said Patent Application no disclosure of the claimed range is found in the Provisional Applications, thus implying an effective file date after that of Applicant's invention.

With regard to claim 25: Closest prior art is Kozicki (US Patent Application with Publication No. 2003/0209728 A1). Within the context as defined otherwise by claim 25 the range for the stoichiometric parameter x (substantially 40 as implicit in the Specification) as claimed is not found in the prior art, because, although Kozicki discloses the invention as claimed in said Patent Application no disclosure of the

claimed range is found in the Provisional Applications, thus implying an effective file date after that of Applicant's invention.

With regard to claims 27-30: Closest prior art is Kozicki (US Patent Application with Publication No. 2003/0209728 A1). Within the context as defined otherwise by claim 27 the range for the stoichiometric parameter x ($x \geq 39, 40, 41, 42$) as claimed is not found in the prior art, because, although Kozicki discloses the invention as claimed in said Patent Application no disclosure of the claimed range is found in the Provisional Applications, thus implying an effective file date after that of Applicant's invention.

With regard to claim 31: Closest prior art is Kozicki (US Patent Application with Publication No. 2003/0209728 A1). Within the context as defined otherwise by claim 31 the range for the stoichiometric parameter x ($39 \leq x \leq 42$) as claimed is not found in the prior art, because, although Kozicki discloses the invention as claimed in said Patent Application no disclosure of the claimed range is found in the Provisional Applications, thus implying an effective file date after that of Applicant's invention.

With regard to claims 32-35: Closest prior art is Kozicki (US Patent Application with Publication No. 2003/0209728 A1). Within the context as defined otherwise by claim 32 the range for the stoichiometric parameter x ("at least 39") as claimed is not found in the prior art, because, although Kozicki discloses the invention as claimed in said Patent Application no disclosure of the claimed range is found in the Provisional Applications, thus implying an effective file date after that of Applicant's invention.

With regard to claim 36: Closest prior art is Kozicki (US Patent Application with Publication No. 2003/0209728 A1). Within the context as defined otherwise by claim 36

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the range for the stoichiometric parameter x ($39 \leq x \leq 42$) as claimed is not found in the prior art, because, although Kozicki discloses the invention as claimed in said Patent Application no disclosure of the claimed range is found in the Provisional Applications, thus implying an effective file date after that of Applicant's invention.

With regard to claims 37-41: Closest prior art is Kozicki (US Patent Application with Publication No. 2003/0209728 A1). Within the context as defined otherwise by claim 37 the range for the stoichiometric parameter x ("at least 39") as claimed is not found in the prior art, because, although Kozicki discloses the invention as claimed in said Patent Application no disclosure of the claimed range is found in the Provisional Applications, thus implying an effective file date after that of Applicant's invention.

With regard to claims 42-43: Closest prior art is Kozicki (US Patent Application with Publication No. 2003/0209728 A1). Within the context as defined otherwise by claim 42 the range for the stoichiometric parameter x ($39 \leq x \leq 42$) as claimed is not found in the prior art, because, although Kozicki discloses the invention as claimed in said Patent Application no disclosure of the claimed range is found in the Provisional Applications, thus implying an effective file date after that of Applicant's invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johannes P Mondt whose telephone number is 571-272-1919. The examiner can normally be reached on 8:00 - 18:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM
November 8, 2004